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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,473	01/06/2004	Brian M. Tierney	033869-001	2339
21839	7590	09/15/2005		
BUCHANAN INGERSOLL PC (INCLUDING BURNS, DOANE, SWECKER & MATHIS) POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER EASTHOM, KARL D	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/751,473

Applicant(s)

TIERNEY ET AL.

Examiner

Karl D. Easthom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8,9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,8,9 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 7-9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakich (5,043,838). Sakich discloses the claimed invention at Figs. 1-2, with lead wires 90, resistor body 5 and 86, 88, resistor body 62, 60, gas impermeable layer 110, flexible gas permeable casing 64, where top of col. 6 indicates that gas can pass through the casing. The layer 110 is gas impermeable where it is plastic. Or note that the housing 58 is impermeable at col. 6, lines 10-30 at least along its length. In claim 2, the casing is woven fiberglass where it is noted as a fiber glass filament at col. 5, lines 15-25. For claims 7-8, the temperature resistance is understood to mean the device can resist those temperatures, and the device can resist any temperature where resist means it takes time to get to that temperature. Also, resistors get very hot so that the device can withstand that temperature. In claim 9, the fasteners are the bolts 99. Note that the lead wires 90 are very thick wires or studs which deliver current. In claim 12, the insulating layer is directly against the core.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-3 and 7-8 are rejected under 35 U.S.C. 102(b) as anticipated by Raudabaugh (5,656,555) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Raudabaugh (5,656,555) in view of Bradley (2079369). Raudabaugh discloses the claimed invention at Figs. 1-2, with lead wires 16, 18, resistor body 22, 24, 26, gas impermeable layer 20 where it is made of different polymers that are shatter proof as noted at col. 3, lines 25-40, and flexible gas permeable casing 14, where the fibers will allow gas to pass through the casing. The parts 16, 18 are lead wires since they are metal leads and wires can be relatively rigid and thick for example. As an alternative, incase the parts 16, 18 are not lead wires, see the 103 rejection. In claims 2-3, the casing is woven fiberglass or ceramic, col. 3, lines 15-20. For claims 7-8, the temperature resistance is understood to mean the device can resist those temperatures, and the device can resist any temperature where resist means it takes time to get to that temperature. Also, resistors get very hot so that the device can withstand that temperature. As to the 103 rejection, Bradley discloses a resistor 5 having leads with a similar woven type of insulator at Figs. 1-3, while Raudabaugh discloses employing his insulation scheme for any type of resistor at col. 3, lines 55-65, so that employing the scheme for a resistor with leads would have been obvious to protect the resistor, or employing normal leads would facilitate connection to other devices. Further, the Figs. 7-8 of Bradley discloses putting leads on terminal caps such as the cap type leads of Raudabaugh.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakich (5,043,838) in view of Yohe (2,808,292) or Raudabaugh (4,656,555). Sakich

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discloses the claimed invention except for the ceramic woven fiber. Yohe discloses the claimed woven fiber at cols. 2-3, and indicates they are permeable and highly insulative with good thermal conductivity, see col. 5, lines 40-50, col. 2, lines 60-71, while Sakich indicates the need to have a permeable layer that is a good insulator, so that such a layer would have been obvious to allow gases to escape or to form good insulation. Raudabaugh discloses using either glass or ceramic fibers at col. 3, lines 15-20 in a device like that of Sakich for similar reasons that presents good tensile strength so that it would have been obvious to employ same.

5. Applicant's arguments 8/1/2005 with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D. Easthom whose telephone number is (571) 272-1989. The examiner can normally be reached on M-Th, 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karl D Easthom
Primary Examiner
Art Unit 2832

KDE